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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Siskiyou)

SHANNON GRIFFIN, Plaintiff and Appellant, v. SCOTT VALLEY UNIFIED SCHOOL DISTRICT et al., Defendants and Respondents.	C087228 (Super. Ct. No. SCCV-CVCV-2016-1281)

Shannon Griffin, formerly a physical education teacher employed by the Scott Valley Unified School District (District), sued the District asserting eight causes of action alleging overlapping violations of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq. (FEHA)). Four causes of action are relevant to the issues raised in this appeal: (1) discrimination based on a back injury Griffin sustained while at work; (2) failure to prevent discrimination and harassment; (3) failure to provide a reasonable accommodation; and (4) failure to engage in an interactive process. The trial court granted the District's motion for summary judgment. Griffin appeals. We affirm.

BACKGROUND

In accordance with the standard of review, we recite the facts in a light favorable to Griffin as the losing party. (*Saelzler v. Advanced Group 400* (2001) 25 Cal.4th 763, 768.)

Griffin's Injury and Initial Accommodation

In September 2014, Griffin injured her back while working as a physical education teacher at Etna High School (EHS), located in the Scott Valley area of Siskiyou County. She consulted with Dr. Donald Solus, an urgent care physician, about her injury three days later. Dr. Solus placed various restrictions on her work, specifically, no lifting, pushing, pulling, or carrying over 50 pounds, no prolonged bending or stooping, and limited twisting movements.

When the District's human resources director, Joy Edwards, received a fax from the urgent care facility delineating these work restrictions, she contacted Griffin to set up a meeting to discuss the restrictions. They were not able to meet in person, but discussed the restrictions over the phone. Although Griffin disputes one minor aspect of Edwards's description of that conversation, she does not dispute the purpose of Edwards's phone call was to make sure she was not lifting more than 50 pounds and also complying with the other restrictions. Nor does Griffin dispute telling Edwards, "teacher's assistan[ts] and students were setting up equipment and picking it up" and she "was satisfied with this arrangement." Edwards told Griffin to reach out to her or the EHS principal if she needed additional assistance complying with the work restrictions.

Griffin saw Dr. Solus a few more times between September and November 2014. Dr. Solus took her off of work completely on November 20 and thereafter referred her to Dr. James Tate, a neurosurgeon, who ultimately performed surgery on Griffin on March 25, 2015.

Griffin's Transfer to the Elementary Schools

Prior to Griffin's surgery, the District's superintendent, Alan Carver, decided to transfer her to a newly-created physical education position at the elementary schools. The decision was made in early March 2015 and was primarily motivated by Carver's desire to move the District's most senior physical education teacher, Scott Forrester, to EHS. As Carver explained in his deposition, in addition to being more senior than Griffin, Forrester "had a strong culture with the kids and a strong physical education program." He also had experience with weight training, a program the District wanted to get started at the high school. The reason Griffin was transferred to the elementary schools, rather than the junior high, was Carver "wanted Kyle Fournier at the junior high." Fournier was a math teacher at the junior high and wanted to obtain an additional physical education credential. As Carver explained, Fournier "had done a tremendous job working with kids" as a math teacher and his decision to obtain a physical education credential gave the District the option of keeping him at the junior high to teach both math and physical education. With respect to Griffin, Carver explained that he thought she "could learn a lot at the elementary schools" and "it would be an opportunity for her to grow and learn." Griffin does not dispute this explanation was the primary reason she was transferred from EHS to the elementary schools.

After Griffin was notified about the involuntary transfer, she requested a meeting with Carver. That meeting took place on March 19, 2015, about a week before her scheduled surgery. At the meeting, Griffin told Carver she was unhappy about the transfer and wanted to remain at the high school. Griffin's health situation was also discussed during the meeting. What exactly was said on that topic is subject to dispute. According to Carver's deposition testimony, he was the one who brought up Griffin's back issues, but only to suggest "that if she did come back [after her surgery] with some sort of restriction, [the District] may be able to better accommodate it at the elementary level." Carver acknowledged he did not know what restrictions, if any, would be placed

on Griffin's ability to work following the surgery, but also stated his belief they could be more appropriately accommodated at the elementary level was based on his having previously worked as a physical education teacher at that level. Carver explained: ". . . I felt strongly that given the smaller campuses, the lack of a weight room, the paraprofessionals and teachers around to be able to assist that generally speaking that you had more staff, the more ability to help somebody if they need an accommodation."

According to Griffin's deposition testimony, during the March 2015 meeting, she expressed concern that her back issues would not allow her to perform the elementary school position and also objected that teaching elementary school children "would be inappropriate because of their size and lack of previous physical education-type development classes." However, according to Leslie Helsley, who also attended the meeting, Griffin stated she did not want the transfer because "that's not professionally what she trained herself to become" and did not "give any other reasons . . . why she didn't want the transfer."

There is no dispute that no interactive process occurred at the March 2015 meeting because Griffin's surgery had not yet been performed and it was therefore "premature" to discuss what limitations she might have following that surgery.

Griffin's Post-surgery Resignation

As mentioned, Griffin's surgery was performed on March 25, 2015. That July, Dr. Tate sent a letter to Dr. Solus providing an update regarding Griffin's recovery and recommending she be released to return to work. While the letter states, "I believe it reasonable for . . . Griffin to return to her prior occupation at her previous level, that is high school teaching," Dr. Tate explained in his deposition testimony that he meant only that Griffin could return to her previous occupation. He in no way meant to suggest her return to work should be limited to high school level physical education and had no medical opinion as to what level of education she should teach.

Griffin then had a follow-up appointment with Dr. Solus, who released her to return to work with two work restrictions, no lifting over 30 pounds and no carrying over 30 pounds. The District received this return-to-work notification on July 20, 2015. Like Dr. Tate, Dr. Solus had no medical opinion as to what specific position Griffin should return to as long as she was able to comply with the work restrictions.

After receiving the return-to-work notification, Human Resources Director Edwards and Superintendent Carver discussed potential accommodations, such as having classroom aides or other elementary school staff lift and carry anything over 30 pounds, and planned to have an interactive process meeting with Griffin to discuss any other reasonable accommodations she might suggest. A meeting was initially scheduled for July, but was moved at Griffin's request to August 12, 2015. In the meantime, she applied for and accepted a position with the Siskiyou County Office of Education.

There is dispute concerning certain details of the August 12 meeting. However, the following facts are undisputed. The meeting was very short. At the start of the meeting, Griffin asked Carver whether he had changed his mind about transferring her to the elementary schools. Carver said he had not. Griffin handed him a written resignation and said she had taken another job. While Griffin claims she also expressed concern about her physical ability to do the elementary school position, she admitted during her deposition testimony that she did not, at any time, express concern that working at the elementary schools would require her to lift or carry more than 30 pounds. According to Griffin, she was nevertheless concerned that "any type of leaning or bending jeopardized [her] back" and she "was unwilling to even chance" another injury. When asked about Dr. Solus's restrictions not including making those movements, Griffin responded, "doctors make mistakes as well." Finally, we note that when asked whether she gave Carver or Edwards an opportunity to respond to these concerns, Griffin answered: "They had every opportunity to discuss the situation. I, like I said, came out and initially asked if there was a reconsideration in my position and there wasn't. In my opinion, that was

the only accommodation that I was willing to take. And, due to the fact that they did not offer anything else in regards to staying at the high school, I had no other choice but to resign. I was not willing to jeopardize my health, my back, teaching that age group."

Griffin's Lawsuit

Griffin sued the District asserting eight causes of action alleging overlapping FEHA violations. Because the operative complaint delimits the scope of the issues cognizable in this appeal, we describe it in some detail. (See *FPI Development, Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 381 [" 'function of the pleadings in a motion for summary judgment is to delimit the scope of the issues . . .' "].) We also limit our description of the complaint to the four causes of action Griffin specifically argues should have survived the District's summary judgment motion, i.e., the first, fifth, sixth, and eighth causes of action.[1]

Griffin's first cause of action alleges discrimination based on her "physical disability" and "medical condition," i.e., her back injury, in violation of Government Code[2] section 12940, subdivision (a).[3] The discrimination occurred, according to Griffin, "when she was constructively discharged." The fifth cause of action alleges the

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[1] Although Griffin argues in a separate section of her opening brief that the trial court erred in granting summary judgment with respect to her "Constructive Discharge Claim," her complaint does not contain a cause of action labeled "constructive discharge." Instead, as we describe more fully momentarily, she alleged such a discharge as part of her first, fifth, and eighth causes of action.

[2] Undesignated statutory references are to the Government Code.

[3] This cause of action also cites subdivision (c) of section 12940. However, that subdivision applies to discrimination in "any apprenticeship training program, any other training program leading to employment, an unpaid internship, or another limited duration program to provide unpaid work experience for that person." (§ 12940, subd. (c).) Because this subdivision is obviously inapplicable to the facts of this case, we limit our description and discussion of this cause of action to subdivision (a).

District failed to prevent discrimination and harassment, in violation of section 12940, subdivision (k), asserting Griffin "was discriminated against, harassed, and constructively discharged due to her request for, and the [District's] refusal to provide her with . . . a reasonable accommodation and interactive process." The sixth and eighth causes of action, in turn, allege the District "failed and refused to provide [Griffin] with a reasonable accommodation" in violation of section 12940, subdivision (m), and "failed to engage in the interactive process" required by section 12940, subdivision (n).

The Summary Judgment Motion

The District moved for summary judgment. With respect to the four causes of action at issue in this appeal, the District argued there was no genuine dispute as to the material facts establishing the following as a matter of law: the first cause of action failed because Griffin suffered no adverse employment action; the fifth cause of action was derivative of the first and failed for the same reason; the sixth cause of action failed because Griffin was offered a reasonable accommodation, albeit one she did not like; and the eighth cause of action failed because the District attempted to engage in an interactive process with Griffin, who refused to participate and instead resigned and walked out of the meeting.

In opposition, with respect to the first cause of action, Griffin argued she "provided ample evidence to show that she was concerned about her health–and that was the only reason that she quit her job–only after confirming that the [District] refused to engage in the interactive process and accommodate her in a way that would protect her health." According to Griffin, this amounted to a constructive discharge, and therefore satisfied the "adverse employment action" element of a discrimination claim under the FEHA. With respect to the fifth cause of action, Griffin argued the District transferred her to the elementary school position prior to engaging in an interactive process to determine whether that position would negatively impact her health, adding, "Carver missed multiple chances to 'take all reasonable steps to prevent discrimination and

harassment.' " Turning to the sixth and eighth causes of action, Griffin argued the District failed to reasonably accommodate her and failed to engage in an interactive process before transferring her to the elementary school position.

The trial court granted the summary judgment motion. As relevant to the issues raised in this appeal, the trial court concluded as a matter of law that Griffin was not constructively discharged and her transfer to the elementary school position was not an adverse employment action. Pointing out that Griffin did not dispute the District's nondiscriminatory and nonretaliatory reason for the transfer, i.e., a desire to bring Forrester to the high school to better utilize that school's weight room, or adduce any evidence suggesting a discriminatory or retaliatory motive, the trial court concluded that "even if [Griffin's] transfer can be considered adverse employment action, it was taken for nondiscriminatory or non-retaliatory reasons." With respect to whether or not the District failed to reasonably accommodate or engage in an interactive process with Griffin, the trial court concluded that while "there was no interactive process meeting," undisputed facts established the District attempted to hold such a meeting and it was Griffin who refused to participate, "beyond a demand that she be restored to the High School position." The trial court further concluded the District was "not required to allow . . . Griffin to continue in the High School position just because that was [her] preference when another reasonable accommodation was available at the elementary schools' position."

DISCUSSION

I

Summary Judgment Principles

We begin by summarizing several principles that govern the grant and review of summary judgment motions under section 437c of the Code of Civil Procedure.

"A defendant's motion for summary judgment should be granted if no triable issue exists as to any material fact and the defendant is entitled to a judgment as a matter of

law. [Citation.] The burden of persuasion remains with the party moving for summary judgment. [Citation.]" (*Kahn v. East Side Union High School Dist.* (2003) 31 Cal.4th 990, 1002-1003 (*Kahn*); Code Civ. Proc., § 437c, subd. (c).) Thus, a defendant moving for summary judgment "bears the burden of persuasion that 'one or more elements of' the 'cause of action' in question 'cannot be established,' or that 'there is a complete defense' thereto. [Citation.]" (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850; Code Civ. Proc., § 437c, subd. (*o*)(1) & (2).) Such a defendant also "bears the initial burden of production to make a prima facie showing that no triable issue of material fact exists. Once the initial burden of production is met, the burden shifts to the [plaintiff] to demonstrate the existence of a triable issue of material fact." (*Laabs v. City of Victorville* (2008) 163 Cal.App.4th 1242, 1250.)

On appeal from the entry of summary judgment, "[w]e review the record and the determination of the trial court de novo." (*Kahn*, *supra*, 31 Cal.4th at p. 1003.) "While we must liberally construe plaintiff's showing and resolve any doubts about the propriety of a summary judgment in plaintiff's favor, plaintiff's evidence remains subject to careful scrutiny. [Citation.] We can find a triable issue of material fact 'if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof.' [Citation.]" (*King v. United Parcel Service, Inc.* (2007) 152 Cal.App.4th 426, 433; see *Sangster v. Paetkau* (1998) 68 Cal.App.4th 151, 163 ["responsive evidence that gives rise to no more than mere speculation cannot be regarded as substantial, and is insufficient to establish a triable issue of material fact"].)

II

Analysis

Griffin challenges the trial court's ruling granting summary judgment with respect to four causes of action. We address each cause of action in turn and conclude summary judgment was properly granted.

A.

First Cause of Action for Discrimination

The FEHA makes it unlawful "[f]or an employer, because of the race, religious creed, color, national origin, ancestry, *physical disability*, mental disability, *medical condition*, . . . of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment." (§ 12940, subd. (a), italics added.)

In order to establish a violation of this section, a plaintiff must show "(1) he [or she] was a member of a protected class, (2) he [or she] was qualified for the position he [or she] sought or was performing competently in the position he [or she] held, (3) he [or she] suffered an adverse employment action, such as termination, demotion, or denial of an available job, and (4) some other circumstance suggests discriminatory motive." (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 355.)

Summary adjudication of this claim was based on Griffin's inability to establish a triable issue of material fact concerning the third and fourth elements. As a preliminary matter, we note Griffin's opening brief does not discuss the discriminatory motive element at all, let alone provide any reasoned argument with citations to authority. (Cal. Rules of Court, rule 8.204(a)(1)(B).) "When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as [forfeited]. [Citations.]" (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785.) This conclusion would be enough to affirm the trial court's ruling with respect to the first cause of action because the District put forward undisputed evidence that it had a nondiscriminatory motive for Griffin's transfer to the elementary schools and Griffin has forfeited any assertion her evidence established a triable issue of material fact in that regard.

Nevertheless, we also address and reject the argument Griffin does raise in her briefing on appeal, specifically that she raised a triable issue of material fact regarding the third element of a discrimination claim, adverse employment action. Griffin argues she established a triable issue of material fact "by testimony during her deposition and her sworn declaration that she was forced to quit her job because in taking the elementary school job, she believed that her health would be compromised." Griffin claims she expressed this belief to Superintendent Carver, tried "unsuccessfully for months to convince . . . Carver that she needed an accommodation of working at the high school so that she wouldn't be required to lift as much weight, bend or stoop," and resigned only after Carver refused to engage in an interactive process with her, amounting to a constructive discharge. We are not persuaded.

"Constructive discharge occurs when the employer's conduct effectively forces an employee to resign. Although the employee may say, 'I quit,' the employment relationship is actually severed involuntarily by the employer's acts, against the employee's will. As a result, a constructive discharge is legally regarded as a firing rather than a resignation." (*Turner v. Anheuser-Busch, Inc.* (1994) 7 Cal.4th 1238, 1244-1245 (*Turner*).) "In order to establish a constructive discharge, an employee must plead and prove, by the usual preponderance of the evidence standard, that the employer either intentionally created or knowingly permitted working conditions that were so intolerable or aggravated at the time of the employee's resignation that a reasonable employer would realize that a reasonable person in the employee's position would be compelled to resign." (*Id*. at p. 1251.)

Griffin's evidence, if credited by a jury, establishes she subjectively believed the elementary school position would jeopardize her back health. However, "the proper focus is on the working conditions themselves, not on the plaintiff's *subjective* reaction to those conditions." (*Gibson v. Aro Corp.* (1995) 32 Cal.App.4th 1628, 1636.) There is also a factual dispute regarding whether or not she expressed her subjective concerns to

Superintendent Carver either before or during the August 12 meeting. Nevertheless, as mentioned previously, Griffin admitted during her deposition testimony that she did not, at any time, express concern that working at the elementary schools would require her to lift or carry more than 30 pounds. Those were the restrictions placed on her return to work by Dr. Solus. According to both Carver and Edwards, they fully intended to accommodate those work restrictions at the elementary school level. Carver believed he would be better able to do so at that level than at the high school level because the elementary schools did not have a weight room. Griffin adduced no evidence in response to the summary judgment motion establishing the District would have been unable to accommodate her work restrictions at the elementary schools.

We address Griffin's arguments with respect to failure to accommodate and failure to engage in an interactive process more fully later in the opinion. For present purposes, we simply note neither transferring Griffin to the elementary school position, nor keeping her at that position following her surgery, created or permitted "working conditions that were so intolerable or aggravated . . . that a reasonable employer would realize that a reasonable person in [Griffin's] position would be compelled to resign." (*Turner, supra,* 7 Cal.4th at p. 1251.)

Because Griffin's first cause of action for discrimination is based on constructive discharge, and there was no such discharge as a matter of law, the trial court properly granted summary judgment with respect to this cause of action.

B.

Fifth Cause of Action for Failure to Prevent Discrimination and Harassment

The FEHA also makes it unlawful "[f]or an employer . . . to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring." (§ 12940, subd. (k).)

This cause of action is mostly derivative of Griffin's first cause of action. Because we have concluded the trial court properly granted summary judgment with respect to the

first cause of action, we must also conclude summary adjudication of this cause of action, to the extent it is based on failure to prevent discrimination, was also proper. (*Trujillo v. North County Transit Dist.* (1998) 63 Cal.App.4th 280, 289 [an employee who has not been discriminated against may not sue an employer for failing to prevent discrimination that did not occur].)

However, Griffin's complaint also alleges the District failed to prevent her from being "harassed . . . due to her request for, and the [District's] refusal to provide her with . . . a reasonable accommodation and interactive process." The complaint does not specifically set forth what this alleged harassment involved, but Griffin's opening brief makes clear she believes the same underlying conduct amounted to both harassment and discrimination. What the opening brief does not provide is any reasoned argument with respect to how the District's conduct amounted to harassment. Griffin does not even set forth the elements of a harassment claim under the FEHA or provide citations to any legal authority whatsoever. As stated previously, "[w]hen an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as [forfeited]. [Citations.]" (*Badie v. Bank of America, supra*, 67 Cal.App.4th at pp. 784-785.) Accordingly, any argument that a triable issue of material fact exists with respect to whether the District unreasonably failed to prevent harassment is forfeited.

C.

Sixth Cause of Action for Failure to Provide Reasonable Accommodation

The FEHA further makes it unlawful "[f]or an employer . . . to fail to make reasonable accommodation for the known physical or mental disability of an . . . employee." (§ 12940, subd. (m)(1).) "The essential elements of a failure to accommodate claim are: (1) the plaintiff has a disability covered by the FEHA; (2) the plaintiff is a qualified individual (i.e., he or she can perform the essential functions of the

position); and (3) the employer failed to reasonably accommodate the plaintiff's disability." (*Wilson v. County of Orange* (2009) 169 Cal.App.4th 1185, 1192.)

There is no dispute Griffin has evidence supporting the first two elements. However, based on the showing made in response to the District's summary judgment motion, she cannot establish the third element. "The FEHA provides a nonexhaustive list of possible reasonable accommodations, including as relevant here: job restructuring, offering part-time or modified work schedules, reassigning to a vacant position, adjusting or modifying examinations, training materials or policies, providing qualified readers or interpreters and 'other similar accommodations for individuals with disabilities.' [Citations.]" (*Wilson v. County of Orange*, *supra*, 169 Cal.App.4th at p. 1193; § 12926, subd. (p)(2).)

Here, the District provided undisputed evidence that Human Resources Director Edwards and Superintendent Carver discussed how best to accommodate Griffin's work restrictions following her back surgery, such as having classroom aides or other elementary school staff lift and carry anything over 30 pounds, and planned to have an interactive process meeting with Griffin to discuss any other reasonable accommodations she might suggest. These accommodations were not in fact provided, but that was not the District's fault. Griffin made clear at the meeting with Carver and Edwards that she would accept only one accommodation as reasonable, i.e., return to her previous position at the high school, and resigned when Carver informed her that she would not be returned to that position.

"[A]n employer is not required to choose the best accommodation or the specific accommodation the employee seeks. Instead, ' " 'the employer providing the accommodation has the ultimate discretion to choose between effective accommodations, and may choose the less expensive accommodation or the accommodation that is easier for it to provide.' [Citation.] . . . [A]n employee cannot make his [or her] employer provide a specific accommodation if another reasonable accommodation is instead

provided. [Citation.]" [Citation.]' " (*Wilson v. County of Orange*, *supra*, 169 Cal.App.4th at p. 1194, quoting *Hanson v. Lucky Stores, Inc.* (1999) 74 Cal.App.4th 215, 228.)

Because the District was not required to provide the accommodation Griffin demanded, and because Griffin adduced no evidence in response to the summary judgment motion establishing the District would have been unable to accommodate her work restrictions at the elementary schools, we conclude the trial court properly granted summary judgment with respect to the sixth cause of action.

D.

Eighth Cause of Action for Failure to Engage in an Interactive Process

The final FEHA provision applicable to this appeal makes it unlawful "[f]or an employer . . . to fail to engage in a timely, good faith, interactive process with the employee . . . to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee . . . with a known physical or mental disability or known medical condition." (§ 12940, subd. (n).)

" 'The "interactive process" required by the FEHA is an informal process with the employee or the employee's representative, to attempt to identify a reasonable accommodation that will enable the employee to perform the job effectively. [Citation.] Ritualized discussions are not necessarily required.' [Citation.]" (*Scotch v. Art Institute of California* (2009) 173 Cal.App.4th 986, 1013 (*Scotch*).)

Ordinarily, the employee must initiate the interactive process. However, here, the burden of initiation shifted to the District when it received Griffin's postsurgery work restrictions from Dr. Solus. (See *Scotch*, *supra*, 173 Cal.App.4th at p. 1013 ["employee must initiate the process unless the disability and resulting limitations are obvious"].) It did so by scheduling a meeting with Griffin to discuss her return to work and the restrictions imposed by Dr. Solus.

Griffin takes issue with this conclusion, arguing the District "never told [her] that the meeting would be an interactive process meeting, never asked for any documentation from her doctor, never asked her if she could perform the physical demands of the job, and never discussed any reasonable accommodation." We are not persuaded. First, we reject the suggestion the District was required to label the meeting "an interactive process meeting" in order to have effectively initiated the interactive process. Just as an employee is not required to utter any "magic words" to effectively initiate the process (*Gelfo v. Lockheed Martin Corp.* (2006) 140 Cal.App.4th 34, 62, fn. 22), we also conclude the words "interactive process" need not be uttered by the employer in order to do so. Second, the District was not required to ask Griffin to bring documentation from her doctor to the meeting. The District already received Dr. Solus's work restrictions. That is what prompted the meeting. We conclude any reasonable person in Griffin's position would have known the purpose of the meeting was to discuss reasonable accommodations for those restrictions. Third, with respect to the District not asking Griffin whether she believed she could do the elementary school job or discussing potential accommodations with her, these considerations go to the question of whether the District engaged in the interactive process in good faith, not whether it initiated the process to begin with. We turn to that question now.

Once the interactive process is initiated, "[b]oth employer and employee have the obligation 'to keep communications open' and neither has 'a right to obstruct the process.' [Citation.] 'Each party must participate in good faith, undertake reasonable efforts to communicate its concerns, and make available to the other information which is available, or more accessible, to one party. Liability hinges on the objective circumstances surrounding the parties' breakdown in communication, and responsibility for the breakdown lies with the party who fails to participate in good faith.' [Citation.]" (*Scotch, supra*, 173 Cal.App.4th at p. 1014.)

Here, the undisputed evidence establishes the responsible party was Griffin. There is no factual dispute concerning the District's readiness to engage in the interactive process. Indeed, the District had effectively done so in response to her initial back injury. But this time, Griffin declined to participate in the process unless the District acceded to her demand to be returned to the high school. As we have already explained, the District was not required to return her to that position. When Carver informed Griffin she would not be returned to the high school, Griffin resigned and walked out of the meeting. We conclude the trial court properly determined Griffin was responsible for the breakdown in communication and appropriately granted summary judgment with respect to the eighth cause of action.

DISPOSITION

The judgment is affirmed. Scott Valley Unified School District is entitled to costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1) & (2).)

/s/
HOCH, J.

We concur:

/s/
MAURO, Acting P. J.

/s/
KRAUSE, J.